



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AJ22

[NRC-2012-0308]

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the NAC International, Inc., Modular Advanced Generation Nuclear All-purpose Storage (MAGNASTOR®) Cask System listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1031. Amendment No. 3 includes changes that would revise authorized contents to include: pressurized water reactor (PWR) damaged fuel contained in damaged fuel cans that are placed in a damaged fuel basket assembly; PWR fuel assemblies with nonfuel hardware per the expanded definition in the Amendment No. 3 application; and PWR fuel assemblies with up to five activated stainless steel fuel replacement rods at a maximum burnup/exposure of 32.5 gigawatt days per metric ton of uranium (GWd/MTU). Additionally, Amendment No. 3 would revise paragraph 4.3.1(i) in appendix A of the CoC Technical Specifications (TS), to clarify that the maximum design basis earthquake accelerations of 0.37g in the horizontal

direction (without cask sliding) and 0.25g in the vertical direction at the independent spent fuel storage installation pad top surface do not result in cask tip-over. Amendment No. 3 would make additional changes to appendix A, Technical Specifications and Design Features for the MAGNASTOR® System, and appendix B, Approved Contents for the MAGNASTOR® System, of the CoC TS.

DATES: Submit comments by **[INSERT DATE: 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may access information and comment submissions related to this proposed rulemaking, which the NRC possesses and is publicly available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0308. You may submit comments by any one of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0308. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668, e-mail: Carol.Gallagher@nrc.gov.
- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6103, e-mail: Naiem.Tanious@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC-2012-0308 when contacting the NRC about the availability of information for this proposed rule. You may access information related to this proposed rulemaking, which the NRC possesses and is publicly available by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0308.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may access publicly-available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search.](#)” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by e-mail to pdr.resource@nrc.gov. An electronic copy of the proposed CoC, including appendices A and B of the TS, and the preliminary Safety Evaluation Report can be found in ADAMS under Package Accession No. ML12227A900. The ADAMS Accession No. for the MAGNASTOR® Cask System Amendment No. 3 dated August 26, 2012, is ML102420569.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2012-0308 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC No. 1031 and does not include other aspects of the MAGNASTOR[®] Cask System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. Adequate protection of public health and safety continues to be ensured.

The direct final rule will become effective on **[INSERT DATE: 75 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. However, if the NRC receives significant adverse comments on this proposed rule by **[INSERT DATE: 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

- 1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

- a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;
 - b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or
 - c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.
- 2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.
- 3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TS.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act sec. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. Nuclear Waste Policy Act 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)). Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)). Subpart K is also issued under sec. 218(a) (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

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Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009.

Amendment Number 1 Effective Date: August 30, 2010.

Amendment Number 2 Effective Date: January 30, 2012.

Amendment Number 3 Effective Date: **[INSERT DATE: 75 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].**

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72-1031.

Certificate Expiration Date: February 4, 2024.

Model Number: MAGNASTOR®.

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Dated at Rockville, Maryland, this 2nd, day of March, 2013.

For the Nuclear Regulatory Commission.

R. W. Borchardt,
Executive Director for Operations.

[FR Doc. 2013-06016 Filed 03/15/2013 at 8:45 am; Publication Date: 03/18/2013]